

**AGREEMENT FOR ANIMAL SERVICES
BETWEEN THE CITY OF PALO ALTO AND
THE CITY OF SUNNYVALE**

This Agreement for Animal Care Services is made this 1st day of January 2004, by and between the City of Palo Alto ("Palo Alto") and the City of Sunnyvale ("Agency").

RECITALS

WHEREAS, State law requires cities to provide certain animal services for the purposes of rabies prevention and animal control; and

WHEREAS, Palo Alto has an established animal control and shelter operation (Palo Alto Animal Services, "PAAS") and currently provides the required services within its own jurisdiction and, by contract, within the jurisdictions of other cities; and

WHEREAS, Agency desires to provide certain animal control services within its jurisdiction, but has no current facilities or ability to provide certain required licensing, animal care and sheltering and associated reporting services, and has requested that Palo Alto provide such services for Agency; and

WHEREAS, Palo Alto is willing to provide such services to Agency, provided that the additional services for Agency will require Palo Alto to hire additional staff and will also require Palo Alto to enlarge its animal shelter facility (the "Expansion Project"); and

WHEREAS, Agency agrees to pay its fair share of the cost of additional Palo Alto staff required for the Services and for the costs of the Expansion Project

NOW, THEREFORE, in consideration of the following covenants, terms, and conditions, the parties agree:

SECTION 1. Term

The term of this agreement shall be from January 1, 2004 to June 30, 2024, "Termination Date", unless sooner terminated or extended by mutual agreement between Palo Alto and the Agency. The parties acknowledge and agree that the Services, as such are hereinafter described, will commence after completion of the Expansion Project. The "Service Term" of this agreement, during which the Services shall be performed,

shall commence on July 1, 2005, or such later date as the parties may mutually agree, and shall thereafter be coterminous with the term.

The parties may extend this agreement beyond Termination Date an additional ten years. The parties agree to meet no later than June 30, 2023 to discuss the terms of such extension.

SECTION 2. Termination by Either Party

Any party may terminate this Agreement at any time, at their sole discretion, by providing 365 days written notice of intent to terminate. In any event of termination under this paragraph Palo Alto shall be paid for all services performed up to the effective date of such termination in addition to any amounts owing to Palo Alto for staffing costs and for the Expansion Project as of the effective date of such termination

SECTION 3. The Services

3.1 During the Service Term of this agreement, Palo Alto shall provide certain animal services ("the Services") to Agency, as hereinafter described.

a. Sheltering and Associated Care

1. PAAS will accept all domestic animals impounded or surrendered by Agency's officers or citizens.

2. PAAS will house and care for all domestic animals delivered by Agency's officers or citizens, including assessment and any required medical treatment.

3. At the conclusion of the State mandated holding period, stray or surrendered animals become the property of PAAS and may either be placed for adoption or humanely euthanized at PAAS' discretion.

4. PAAS will accept all dead animals not to exceed 100 pounds each, for disposal from Agency's officers or citizens.

b. Euthanasia and Rabies Control Services

1. PAAS will provide veterinarian training and supervision for Agency's animal control officers for the purposes of (a) euthanizing animals of an age or medical condition rendering them unfit for impoundment when brought to the PAAS facility, and (b) decapitating animals suspected of

rabies at the PAAS facility for transport to other laboratory testing facilities selected by Agency. These activities performed by Agency's animal control officers shall be conducted according to the requirements of California law and PAAS policies and procedures, and for that reason these officers shall be trained and certified by the State of California as required for the performance of these activities.

2. Agency shall be responsible for all costs and for filing all reports required regarding the euthanasia and rabies control activities conducted by Agency's animal control officers at the PAAS facility.

c. Dog Licensing Services

1. PAAS shall collect and remit to Agency dog license fees required by Agency in connection with the release from impoundment of dogs delivered to the PAAS facility from within Agency's jurisdiction.

2. Agency shall provide a current dog license database to PAAS for collection of dog license fees upon release from impoundment.

d. Associated Administrative and Reporting Services

1. PAAS shall provide owners of lost pets with information about impounded animals in accordance with State law.

2. PAAS will maintain records for domestic animals from Agency's jurisdiction that have been received at the shelter and shall provide Agency with monthly reports describing animals received and their disposition.

e. General Standards of Operation

1. All fees shall be at the rates established by the Palo Alto City Council

2. The Palo Alto City Veterinarian shall oversee all animal health, hygiene and nutritional needs at PAAS.

3. PAAS will provide for the emergency treatment for all domestic animals under its care, either at the PAAS or through another veterinary facility with which it contracts.

4. The adoptability of animals as well as the approval or denial of potential adopters remains the sole responsibility of PAAS.

5. No animals, dead or alive, shall be knowingly released or sold for any type of experimentation.

6. Humane box traps, for the capture of feral cats, shall be available for rental at PAAS to residents of Agency, at rates set by Palo Alto. The rental cost and return of the trap shall be the responsibility of the resident.

7. Employees of the PAAS are employees of Palo Alto, which shall have sole authority over all terms and conditions of their employment. In the event that Palo Alto proposes to add to or subtract from the number of employees providing the Services hereunder, Palo Alto will consult with the Animal Services Task Force prior to taking such action; provided, that any such decision shall be the sole discretion of Palo Alto.

The Services will be provided in accordance with this agreement and the provisions of Agency's ordinances, insofar as they have been made known to PAAS by Agency, and in compliance with all related applicable laws of the State of California. Agency has provided and PAAS acknowledges that it has received copies of all Agency ordinances applicable to the performance of the Services. Agency agrees that it will keep PAAS informed of any changes or additions to Agency's ordinances that might affect PAAS' responsibilities or performance under this agreement.

3.2 Agency Obligations.

a. Agency hereby designates Palo Alto to perform, on behalf of Agency, all duties that Palo Alto has agreed to perform in Section 3.1 of this Agreement.

b. Agency hereby agrees that PAAS employees may legally enforce those sections of Agency's Municipal Code, as they deem necessary to complete their performance of the Services.

c. Agency hereby gives PAAS access to Agency's dog licensing database for the collection of fees upon release from impoundment.

d. Agency shall be solely responsible for the prosecution of criminal actions within its jurisdiction;

provided, however, that Palo Alto employees will assist Agency as needed.

e. Agency shall be solely responsible for arranging and conducting hearings under its Dangerous Animal Ordinances, including the collection of costs, and the defense of any appeal or litigation of whatever nature, based thereon; provided, however, that Palo Alto employees will assist Agency as needed, inclusive of, but not limited to, expert testimony at hearings.

f. Agency agrees to adopt and enforce Palo Alto's animal related fee schedule within its jurisdiction, with the exception of dog licensing fees.

3.3 Advisory Committee

The parties hereto agree to participate in the Animal Services Task Force (ASTF). The ASTF shall meet on a quarterly basis and will consist of a representative appointed by Agency and the Superintendent and Supervisor of PAAS, as well as a representative of each party that contracts with Palo Alto for animal services. The purpose and role of the ASTF shall be to set operational standards for providing the Services and to make recommendations to the parties to this and other animal services agreements. The duties and responsibilities of the ATSE are described in Exhibit "A", attached hereto and incorporated herein by reference. The members of the ASTF may agree to change such duties and responsibilities from time to time, in a manner consistent with the purpose and role of the ASTF as described above.

SECTION 4. Expansion Project

4.1 The parties agree that the capacity of the PAAS is not currently sufficient to provide the Services. Palo Alto has prepared preliminary plans for a construction project ("Expansion Project"), which would remodel the PAAS facility and expand it by 2,000 square feet, plus an additional 2,500 square feet of kennel space; upgrade the HVAC system, roof and electrical; and add ADA upgrades. A description of the Expansion Project, including the estimated costs thereof, is attached as Exhibit "B", and incorporated herein by reference.

4.2 The Expansion Project will require both Palo Alto and Bay Conservation and Development Commission approvals prior to commencement of construction. The Expansion Project is currently projected for completion in mid-2005.

4.3 The Expansion Project is a public project of Palo Alto, which shall be solely responsible for its execution and

administration. Agency will have the reasonable opportunity to review and comment on the construction plans and drawings and the estimated costs thereof; however, except as provided in Section 5.1, Palo Alto shall make all final decisions respecting the Expansion Project.

SECTION 5. Compensation

5.1 The Expansion Project

a. With the understanding that Palo Alto's ability to provide the Services is dependent on the Expansion Project, Agency agrees that it will provide a portion of the funding for the Expansion Project. The parties acknowledge that other public agencies, which contract with Palo Alto for provision of animal services, will also share in the cost of the Expansion Project. The relative share of each participating public agency, including Agency and Palo Alto, is set forth in Exhibit "B".

b. On or before January 1, 2004, Agency shall pay Palo Alto, as its initial share of the Expansion Project costs, the amount of \$220,000, as Agency's share of the estimated costs of planning, evaluation and design.

c. On or before August 1, 2004, Agency shall pay Palo Alto the amount of \$880,000, as Agency's share of the estimated costs of construction and furnishings of the Expansion Project.

d. When the final engineer's estimated cost for the Expansion Project has been completed by or for Palo Alto, a copy shall be given to Agency and the other contracting agencies.

1. If the final estimated cost is higher (but less than 20% higher) than the preliminary estimate shown in Exhibit "B", which is the amount upon which the respective payment obligations of all the contracting agencies, including Agency, have been calculated, Agency shall pay to Palo Alto an amount equal to 60% of the total increase between the preliminary and estimated cost for the Expansion Project. This amount shall be due and payable to Palo Alto within 30 days of Agency's receipt of the final estimated cost.

2. If the final estimated cost is 20% or more in excess of the preliminary estimate shown in Exhibit "B", Palo Alto, Agency, and the other contracting agencies shall meet to agree upon whether and in what manner to proceed. If, after 25 days, a course of action is not agreed upon, this agreement shall be deemed to be terminated by mutual consent pursuant to Section 2.

3. If bids are received for the Expansion Project, and the bids indicate a cost that is less than 20% higher than the preliminary estimate shown in Exhibit "B", Agency shall pay to Palo Alto an amount equal to 60% of the total increase between the preliminary estimate and the bid amount, less any amount Agency has paid to Palo Alto pursuant to subparagraph 1 of this paragraph f. This amount shall be due and payable to Palo Alto within 10 days from the bid opening.

4. If the bids indicate a cost that is more than 20% higher than the preliminary estimate shown in Exhibit "B", or that is higher than the amount that the parties agreed to pay pursuant to subparagraph 2 of this paragraph f, then Palo Alto, Agency, and the other contracting agencies shall meet to agree upon whether and in what manner to proceed. If, after 25 days, a course of action is not agreed upon, this agreement shall be deemed to be terminated by mutual consent pursuant to Section 2.

e. Palo Alto shall hold any apparent excess payments by Agency until after completion of construction and all work incidental thereto, including resolution of all claims, at which time, Palo Alto shall provide a final accounting of costs to Agency and shall return any overpayment to Agency.

f. The total obligation of Agency does not include costs of claims related to the construction contract, the costs of defense of those claims, and the costs of any unforeseen conditions not otherwise described in this agreement. Additional costs and responsibilities for any required actions that exceed the budgeted costs of the Expansion Project, except as otherwise agreed to in accordance with this Section 5.1 shall be covered by amendment to this agreement. Palo Alto may be required to stop work on the Expansion Project until additional funding is secured and/or cause the PAAS to be restored to a safe operating condition, using any then unexpended funds, if those additional funds are not made available for completion of the Expansion Project.

g. Agency understands and agrees that, although some parts of the Expansion Project may have been constructed by Palo Alto with or without this agreement, the scope and timing of the Expansion Project are being undertaken for the purpose of this agreement. Therefore, Agency agrees that the total of all amounts owing by Agency to Palo Alto pursuant to this section 5.1 shall be payable to Palo Alto in the event of early termination of this agreement; provided that if the agreement is terminated pursuant to subparagraph 2 of paragraph d, then the total amount owing by Agency to Palo Alto shall be the amount set forth in paragraph b of this section 5.1. And provided further, that if the agreement is terminated pursuant to Section

5.1, subparagraph 4, of paragraph 4 then the total amount owing by Agency to Palo Alto shall be the amount set forth in paragraph b plus any additional amount that Agency is obligated to pay to Palo Alto for final design and engineering costs pursuant to subparagraph 1 of paragraph d of this Section 5.1.

h. If Palo Alto terminates this agreement within seven years of completion of this expansion project, Agency will be compensated for their portion of the paid construction costs, at the following rate:

- Year One	-	75%
- Year Two	-	65%
- Year Three	-	55%
- Year Four	-	45%
- Year Five	-	35%
- Year Six	-	25%
- Year Seven	-	15%

i. Agency acknowledges that funds paid towards the Expansion Project do not entitle Agency to any ownership rights in the building or the improvements thereto.

5.2 The Services

The purpose of this section is to equitably allocate the actual costs of providing animal services to Agency in proportion to PAAS' total costs for those services.

a. Agency agrees to pay Palo Alto, on or before October 30, 2005, or whatever later date the parties agree as the commencement date of the Service Term, an amount that PAAS has estimated to be one quarter (¼) of its yearly cost of providing the Services to Agency. Thereafter, Agency shall pay Palo Alto in equal quarterly payments an amount based on the previous years' actual costs calculated at the beginning of each fiscal year, becoming due and payable on or before October 30, January 30, April 30, and July 30 of each year of the Service Term, beginning with October 30 of the first year of the Service Term

b. At the end of each quarter of the Service Term, Palo Alto shall pay to Agency any fees it has collected from individual citizens of Agency in accordance with Section 3 of this Agreement, for the following services provided for animals originating within Agency's jurisdiction: dog licenses, impoundment fees, and board fees. Payment shall be by check from Palo Alto and shall not offset or be deducted from the quarterly payments owing by Agency to Palo Alto.

c. At the close of each fiscal year, (June 30), of the contract, Agency's actual payment will be adjusted to reflect the Agency's percent of the total actual Animal Control Program costs incurred by Palo Alto. The percentage shall be calculated based on the actual animals handled by Palo Alto for Agency compared to the actual fiscal year program costs. Animal Control Program costs are comprised of the operational areas as presented in Exhibit "C". (Refer to Section 5.3, Staffing Costs, for additional fiscal responsibilities of Agency.)

d. Any amount in excess of or less than Agency's percentage, of the actual animal control program costs, will be returned to or billed to Agency by October 1 of each year during the Service Term. Agency shall pay the amount of any deficit within 30 days of Agency's receipt of the bill.

e. All payment shall be sent to:
Superintendent of Animal Services
3281 East Bayshore Road
Palo Alto, CA 94303

f. Any payments not received on or before the date when payment is due shall accrue interest beginning the date when payment is due and the date payment is received and will be billed at the prevailing rate of return earned by Palo Alto's investments during that period.

g. In the event of early termination of this Agreement during the Service Term, in accordance with Section 2 of the Agreement, Palo Alto will bill Agency and Agency shall pay to Palo Alto a pro rated amount of the quarterly payment based on the percentage of the quarter that has elapsed as of the effective date of termination.

h. For any animal(s) originating within Agency's jurisdiction that are required to be housed at PAAS over ninety (90) calendar days, Agency will be assessed and shall pay a daily charge equal to the then current board fee as set forth in the Palo Alto Municipal Fee Schedule, plus the cost of any medical expenses necessary to care for the animal(s), commencing with the ninety-first (91) day of impoundment. Any amounts owing by Agency under this paragraph h shall be in addition to the quarterly payments for care and housing for which Agency is obligated pursuant to paragraphs a and c of this Section 5.2.

i. Agency shall be obligated to pay the cost of any unforeseen changes in State requirements relating to the care and housing of animals that Palo Alto is required to undertake in providing the Services.

j. In the event that the parties consider making future capital expenditures for shelter improvements during the term of this agreement, this agreement may be amended to provide therefor. It is anticipated that Agency shall pay its pro rata share of costs for such improvements, provided that Agency is given notice of the nature and estimated costs for such improvements prior to Palo Alto's commitment to such improvements and Agency agrees to amend this agreement to provide for cost sharing for the capital improvements.

k. PAAS shall provide Agency with an estimate of the next years contract amount for budgeting purposes, by May 1st of each year.

5.3 Staffing Costs - In the first year of providing services, Agency shall pay an amount equal to the cost of all salary and benefits associated with the additional staffing required to perform the services for Agency. Specifically, one half-time (.5 fte) Veterinary Technician, one half-time (.5 fte) Animal Services Specialist and a half time (.5 fte) Animal Attendant. For each subsequent year, the costs associated with these positions will be spread among all the contracting agencies including Palo Alto and Agency.

5.4 Host Fee - In addition to all other compensation provided for by this agreement, Agency shall pay to Palo Alto the amount of \$30,000, due and payable upon the commencement date of the Service Term, and thereafter pay on each and every anniversary thereof an amount equal to \$30,000 adjusted by the increase or decrease in the San Francisco/Oakland/San Jose Consumer Price Index.

SECTION 6. Indemnification and Hold Harmless

Agency acknowledges that it is required by law to provide the Services, and that it has no present ability to provide those Services and has requested that Palo Alto provide such services. Therefore, Agency expressly agrees to defend, indemnify and hold harmless Palo Alto, its officers, agents, employees and servants from all demands, claims, liabilities, losses, charges, costs, or damages caused by or arising out of Palo Alto's acts or omissions in the performance of this Agreement unless those acts or omissions constitute intentional or grossly negligent misconduct.

SECTION 7. Notices

All notices shall be submitted, in writing, and sent by the United States mail, certified and postage prepaid, by private express delivery service, by facsimile transmission

followed by delivery of hard copy, or by any other process mutually acceptable to the parties to the addresses stated below or to any other address noticed in writing.

Palo Alto: Superintendent of Animal Services
3281 East Bayshore Road
Palo Alto, CA 94303

Agency: Sunnyvale Department of Public Safety
700 All America Way
P.O. Box 3707
Sunnyvale, CA 94088-3707

SECTION 8. Amendments

Amendments to this Agreement must be in writing and approved by the governing body of Agency and Palo Alto. This is the entire Agreement between the parties and supersedes any prior written or oral agreements between the parties relating to the Services or to the Expansion Project.

SECTION 9. Miscellaneous

9.1 This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any changes resulting in modifications to the Services shall be provided in writing by Palo Alto to Agency as soon as Legislative bodies enact any new or modified regulations regarding animals, their care and housing.

9.2 Palo Alto shall not be deemed in default on account of any delay or failure to perform any obligations in accordance with Agency laws, the laws of the State of California, the Palo Alto Municipal Code, and the terms of this Agreement, which directly results from an Act of God, including, an occurrence of nature.

9.3 If a Court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the unaffected provisions of this Agreement shall remain in effect.

9.4 The prevailing party in any action brought to enforce the terms of this Agreement may recover from the other party its reasonable costs and attorneys' fees expended in connection with such an action.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS Agreement in Palo Alto, County of Santa Clara, California, on the date first above stated.

"PALO ALTO"

"AGENCY"

CITY OF PALO ALTO

CITY OF SUNNYVALE

Mayor

City Manager

ATTEST:

ATTEST:

City Clerk

City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Senior Asst. City Attorney

City Attorney

APPROVED:

Assistant City Manager

Police Chief

Director of Administrative
Services

EXHIBITS:

- Exhibit "A" - Animal Services Task Force Responsibilities
- Exhibit "B" - Animal Shelter Expansion Breakdown of
Project Costs by City
- Exhibit "C" - Definitions of Operational Areas

Exhibit "A"

The responsibilities of the Animal Services Task Force (ASTF) shall include, but not be limited to:

1. Review the existing animal control ordinances of the agencies represented on the ASTF and make recommendations for appropriate changes.
2. Review changes in State requirements relating to the care and housing of animals.
3. Periodically review the animal-licensing program.
4. Review complaints regarding Palo Alto's Services.
5. Review fees, revenues and expenditures relating to Palo Alto's Services.
6. Periodically review the cost sharing formulas for the agencies represented on the ASTF; consider fiscal implications for other agencies if one agency terminates its participation.
7. Review and discuss proposed additions or deletions to the number of PAAS staff; provided, however, that final decisions on any Palo Alto personnel matter shall be at the sole discretion of Palo Alto.
8. Review the Final Engineer's Estimate relating to costs of the Expansion Project and make recommendations on how to proceed, if appropriate under the agreement.
9. Review low bid(s) for Expansion Project and make recommendations on how to proceed, if appropriate under the agreement.
10. Review future PAAS capital improvements.

Exhibit "B"Expansion Project

This project will provide a 2,000 foot expansion of the Animal Shelter to increase administrative space, cat rooms, veterinary receiving/treatment area, spay/neuter clinic, storage areas and a small animal room. A new separate 2,500 square foot dog kennel building will also be added. In addition, the HVAC system will be renovated or replaced, electrical service panels will be upgraded and ADA requirements will be met. If necessary, the structure will be seismically evaluated and structural work done. Other renovations include flooring, painting, and roofing.

DESCRIPTION/SPACE	PALO ALTO	SUNNYVALE	MT. VIEW	LOS ALTOS	LOS ALTOS HILLS	TOTAL
New vet exam room		\$177,125				\$177,125
New administration	\$19,006	\$78,260	\$8,944	\$3,354	\$2,236	\$111,800
New lobby	\$17,680	\$72,800	\$8,320	\$3,120	\$2,080	\$104,000
New cat room #1		\$67,600				\$67,600
New cat room #2		\$83,200				\$83,200
New small animal room	\$19,338	\$79,625	\$9,100	\$3,413	\$2,275	\$113,750
Subtotal interior spaces	\$56,024	\$558,610	\$26,364	\$9,887	\$6,591	\$657,475
New dog kennels	\$160,000	\$231,680				\$391,680
New large animal housing		\$7,680				\$7,680
Shift parking lot		\$36,000				\$36,000
New landscape		\$30,000				\$30,000
New site work & utility service		\$100,000				\$100,000
Renovations to existing bldgs	\$224,000		\$108,000	\$44,000	\$24,000	\$400,000
Allowance for seismic upgrades	\$8,500	\$35,000	\$4,000	\$1,500	\$1,000	\$50,000
Fixtures, furniture & equipment	\$10,317	\$42,483	\$4,855	\$1,821	\$1,214	\$60,690
Escalation (5%)	22,942	52,073	7,161	2,860	1,640	86,676
TOTAL	\$481,783	\$1,093,526	\$150,380	\$60,068	\$34,445	\$1,820,201
ROUNDED OFF	\$480,000	\$1,100,000	\$150,000	\$60,000	\$35,000	\$1,825,000

Note:

%'s of total project	27	60	8	3	2	100
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EXHIBIT "C"**DEFINITIONS OF OPERATIONAL AREAS - SUNNYVALE**

In an effort to clarify the functions included in the breakdown of fiscal areas, the following is offered. It should be noted that other duties and responsibilities may be inserted in any of the outlined areas as is deemed necessary.

Animal Administration (70070001)***Meetings******Fiscal duties and responsibilities******Equipment maintenance******Facility maintenance******Time card preparation******Personnel issues and supervision******Disaster Preparedness******Volunteer Program******Recruitment******Placement and training of volunteers******Recognition and event planning******Evaluation of volunteers******Scheduling of volunteers******Development of and implementation of programs******Disciplinary actions, termination, and associated procedures.******Risk Management******Mandatory/nonmandatory training******Hiring and retention*****Pet Recovery/Adoption Services (70070002)*****Microchip implanting******Adoption counseling******Pet Introduction******Animal redemption******Animal receiving (office), screening******Lost and found animal reports******Pet supplies - selling and ordering******Behavioral questions******Pet Identification and licensing******Dead animal disposal - including private cremation/burial******Pet of the week promotion***

Outreach activities

Public education on animal related topics

Animal Care (70070003)

Kennel and cage cleaning

Feeding of animals

Health examinations

Evaluation and euthanasia

Medical evaluation - emergency assessment

Emergency treatment during operation hours

Referral of wildlife care to Wildlife Rescue

Pet food/kennel supply pick up

Daily assessment of each animal

In-house spay/neuter and vaccinations

Post and Pre surgical questions

Temperament evaluations

Department Administration (70010001)

Associated police administration

Department-wide impacts

Overall fiscal meetings

Department Liability Insurance

Cost Plan (Services provided by the following Departments)

Administrative Services

City Attorney

City Auditor

City Clerk

City Council

Human Resources

City Manager

Public Works Facilities and Maintenance

Cu 7/9/03